IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3896 of 1996

with

Civil Application No. 103 of 1998

in

Special Civil Application No. 3896 of 1996

with

SPECIAL CIVIL APPLICATION No 3776 and 3481 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE TEXTILE CORPO.

Versus

RECOVERY OFFICER E.S.I.C.

Appearance:

1. Special Civil Application No. 3896 of 1996

MS PJ DAVAWALA for Petitioner

MR SR SHAH for Respondent No. 1
RULE SERVED BY DS for Respondent No. 2

2. Special Civil ApplicationNo 3776 of 1996
MS PJ DAVAWALA for Petitioner
MR SR SHAH for Respondent No. 1
RULE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 23/03/2000

ORAL JUDGEMENT

Learned advocate Ms. Davawala is appearing for the petitioners in all these petitions. Learned advocate Mr. S.R.Shah is appearing for the respondent in all these petitions. In special civil application no. 3896 of 1996, respondent no. 1 issued a notice of demand dated 7th September, 1993 and by the said notice, an amount of Rs.74063.00 came to be demanded from the petitioner towards ESI Dues for the period from 1989 to 1991 nd thereafter also, again the first respondent issued notice dated 30.11.1993 calling upon the petitioner to pay up Rs. 36,155.00 for the period from 1st April, 1991 to 31st March, 1993 and interest thereon upto 30.11.1993.

In special civil application o. 3776 of 1996, challenge is to the notice dated 7.9.1993 issued by the ESI Corporation calling upon the petitioner to pay an amountof Rs.199903.00 towards ESI Dues for the period from 1986 to 1988 and thereafter, the petitioner had received another communication dated 30.4.1996 raising claim of Rs.2,69,104.00 towards ESI Dues.Said communiation also was issued by the ESI Corporation to the petitioner. Thereafter, the first respondent had addressed letter dated 14.5.1996 to respondent bank to pay over a sum of Rs.2,80,632.00 to the respondent and feeling aggrieved, the petitioner has filed the petition being special civil application no. 3776 of 1996 before this court.

In special civil application no. 3481 of 1996, the petitioner has challenged notice of demand dated 26.7.1994 whereby the petitioner has been called uponto pay an amountof Rs.61,415.00 towards the ESI DUes for the period from 1991 to 1993 which was replied by the petitioner by letter dated 18.9.94 and the petitioner had

made payment of Rs.15,000/- but thereafter the petitioner had received another communication dated 5.2.1996 raising claim of Rs.58,146.00 towards the ESI DUes after deducting Rs.15000/- which has been paid by the petitioner as stated above.Said notice was replied by the petitioner by reply dated 24.2.96 and thereafter thepetitioner had received another communication from the first respondent for the same amount. Feeling aggrieved by the said action of the first respondent, the petitioner has filed the said petition.

In special civil applicationNo. 3896 of 1996, the respondent ESI Corporqation has filed civil application no. 103 of 1998 inter alia pointing out that the petition has become infructuous in view of the fact that in company petition no. 205 of 1996, by an order dated 6.2.1997, this COurt, (Coram:S.D.Pandit,J.) has passed an order of winding upof the GujaratState Textile Corporation and consequent to suchwinding up order which was based upon the order passed by the Government of Gujarat in its Labour and Employment Department,Sachivalaya, Gandhinagar dated 13th December, 1995 under the Bombay Relief Undertakings (Special Provisions) Act,1958, the unit namely M/s. Kanti Cotton Mills, AHmedabad was granted stay against the remedy for enforcement of all rights, privileges,obligations, liabilities, accrued or incurred before the said date and itis declared to be a relief undertaking with effect from 6.12.1995 and also for the period from April, 1993 to December, 1994 suspending all proceedings relating to the recoveried of all debts, rights, obligations, privileges, liabilities etc.It has been held in para 4 of the order passed by this court on 6.2.1997 in company petition no. 205 of 1996 as under :

> "I, therefore, order that the Gujarat State Textile Corporation Ltd. is hereby wound up and the OL of this court is appointed to take charge of the possession of all the properties and assets of the said company and said OL to associate with the Gujarat Industrial Development Corporation as his agent undersection 457(2)(v) of the COmpanies Act for the purpose of preservation, protection and disposal of the property and said agent is to act under the instruction of the OL. In the said winding up proceedings, the OL has to exercise all the powers under section 456 and 457 of the Companies Act and in case

> of difficulties, he has to approach this Court. The Gujarat Industrial Development Corporation while acting as an agent of OL is not to claim any remuneration from the OL."

In view of these facts emerging from this civil application, I am of the view that all these petitions have become infructuous and are required to be disposed of as having become infructuous. Therefore, all these petitions are ordered to be disposed of as having become infructuous. Rule in each of these petitions shall stand discharged with no orderas to costs. Ad interim relief or interim relief granted earlier in each of these petition shall stand vacated. There shall be no orderas to costs.

In viewof this order passed in these petitions, civil application no. 103 of 1998 in special civil application no. 3896 of 1996 is allowed. Rule is made absolute with no order as to costs.

23.3.2000 (H.K. Rathod,J.)